

ANNUAL REPORT
OF THE
ENVIRONMENTAL QUALITY SERVICE COUNCIL



Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204

November, 2013

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2013

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ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Craig Mortell
Attorney for the Council

Jessica Harmon
Fiscal Analyst for the Council

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

I. STATUTORY DIRECTIVE

The Indiana Code requires the Environmental Quality Service Council (EQSC) to do the following:

- Study issues designated by the legislative council.
- Advise the commissioner on policy issues decided on by the council.
- Review the mission and goals of the department and evaluate the implementation of the mission.
- Serve as a council of the general assembly to evaluate:
 - ▶ resources and structural capabilities of the department to meet the department's priorities; and
 - ▶ program requirements and resource requirements for the department.
- Serve as a forum for citizens, the regulated community, and legislators to discuss broad policy directions.
- Review and discuss various topics related to the Great Lakes and the Great Lakes watershed, including:
 - ▶ the availability of federal funds for projects related to water quality, supply, and protection;
 - ▶ the extent of water consumption and use from the Great Lakes, including the Great Lakes watershed;
 - ▶ levels of water pollution and the sources affecting water quality of the Great Lakes, including the Great Lakes watershed;
 - ▶ the impact of water quality and supply issues on recreational activities and natural habitats;
 - ▶ the impact of invasive species on the Great Lakes and the Great Lakes watershed ecosystem;
 - ▶ current laws and regulations affecting the Great Lakes, including the Great Lakes—St. Lawrence River Basin Water Resources Compact (IC 14-25-15);
 - ▶ current laws, regulations, and infrastructure conditions affecting shipping in the Great Lakes; and
 - ▶ other matters relevant to the condition of the Great Lakes and the Great Lakes Watershed.

[Source: IC 13-13-7-9]

II. INTRODUCTION AND REASONS FOR STUDY

No particular subjects were assigned to the EQSC for study in 2013 by law or by the Legislative Council. The EQSC operated under its general statutory mandate in IC 13-13-7-9 and, under the direction of its chairperson, studied a number of subjects related to the environment.

III. SUMMARY OF WORK PROGRAM

The testimony received by the EQSC is summarized below. Additional details concerning the testimony of the witnesses are available in the meeting minutes. The minutes and all exhibits presented to the EQSC can be accessed from the Indiana General Assembly's website at <http://www.in.gov/legislative/>.

The EQSC met four times during the 2013 interim period on the following dates, and at the following locations, to discuss the following subjects:

August 28, 2013	Room 431, Indiana Statehouse	Recycling
September 13, 2013	Indiana Dunes National Lakeshore Visitors Center, Porter, Indiana	The Great Lakes-St. Lawrence River Basin Water Resources Compact, Asian carp, and backflow prevention
October 11, 2013	Room 431, Indiana Statehouse	Municipal utilities providing service to properties outside the municipalities
October 30, 2013	Room 431, Indiana Statehouse	IDEM annual reports on its regulatory programs

IV. SUMMARY OF TESTIMONY

First meeting - August 28, 2013

Recycling

Committee staff (Jessica Harmon and Craig Mortell) made a presentation on the recycling laws of Indiana and on recycling-related state fees and state funds. Thomas Easterly, Commissioner of the Indiana Department of Environmental Management (IDEM), spoke on IDEM's Administration of Recycling Programs.

Carey Hamilton, Executive Director of the Indiana Recycling Coalition, spoke about the history of Indiana recycling policy, the job growth potential of expanded recycling, and a range of options to grow recycling in Indiana. Sally Rideout Lambert of Alcoa, Charles Schwarze of Amcor Rigid Plastics, Dave Hudson of Strategic Materials, Inc., Scott Miller of Knauf Insulation, Michael Smaha of Owens-Illinois, Inc., and Steve Segebarth of the Verallia corporation spoke in favor of efforts to increase the recycling of recyclable materials in Indiana.

Patrick K. Bennett of the Indiana Chapter of the National Solid Waste Management Association

discussed recycling from the perspective of the solid waste hauling and disposal industry. Larry D. Barker and Jennifer Lawrence spoke about the involvement of Indiana Solid Waste Management Districts in recycling.

Matt Grantz and Kira Blacketer of the City of Fort Wayne Solid Waste Department discussed their city's recycling program, and Melody Park of the Office of Sustainability of the City of Indianapolis discussed the recycling programs operated by Indianapolis.

Second meeting - September 13, 2013

The Great Lakes-St. Lawrence River Basin Water Resources Compact

Chris Smith of the Indiana Department of Natural Resources (DNR):

- discussed the Great Lakes-St. Lawrence River Basin Water Resources Compact ("Compact") and the Indiana Water Resources Management law (IC 14-25-7);
- presented data on the significant water withdrawal facilities located in Indiana within the Great Lakes basin and on the amount of water they withdraw; and
- discussed the Compact's limitation on diversions of water from the Great Lakes Basin and the rule being adopted by the Natural Resources Commission to implement article 4 of the Compact, which concerns water conservation and efficiency programs.

Asian Carp

John Goss of the White House Council on Environmental Quality provided the EQSC with information about the Asian Carp Regional Coordinating Committee, a task force made up of federal, state, and local agencies that is working to prevent the establishment of a population of nonnative Asian carp in the Great Lakes.

Indiana Attorney General Greg Zoeller described the role of the attorney general in the Asian carp control effort and discussed a boat trip on the Wabash River on which he viewed the Asian carp infestation firsthand.

Professor Reuben R. Goforth, PhD., of Purdue University provided information about the four species of Asian carp, the likely economic and ecological consequences of the establishment of Asian carp in the Midwest, and problems hampering efforts to prevent, limit, or slow the advancement of Asian carp.

Backflow in drinking water systems

James Probst of the Indiana American Backflow Prevention Association and Sean Cleary of the International Association of Plumbing and Mechanical Officials discussed the problem of backflow (i.e., drinking water flowing in the direction opposite of the direction it is intended to flow, possibly becoming contaminated and unsafe to drink). They advocated the passage of legislation in 2014 to: (1) require the owner of a plumbing system that includes a backflow

prevention assembly to test the backflow prevention assembly annually; (2) require registered backflow testers to obtain at least two hours of continuing education every two years; and (3) require the State of Indiana to adopt and make available to the public a standard electronic backflow test report form.

Third meeting - October 11, 2013

Municipal Utilities Providing Service to Properties Outside the Municipalities

Rhonda Cook of the Indiana Association of Cities and Towns made a presentation on municipal utilities' "opting out" of the jurisdiction of the Indiana Utility Regulatory Commission (IURC); the circumstances under which a municipal utility extends service to users whose property lies outside the boundaries of the municipality; the ability of these "outside users" to petition the IURC to review and possibly adjust their rates under IC 8-1.5-3-8.3(m) and IC 8-1.5-3-8.3(e); and the ability of municipal utilities to contract with outside users for payments in lieu of annexation under IC 36-4-3-21.

Gary Malone, CPA of H. J. Umbaugh & Associates presented an overview of the ratemaking process for Indiana municipal utilities.

David B. Nutty, the Manager of Water Treatment for the City of Connersville, discussed his city's experience in extending water and sewer service outside the city limits, which involved the collection of a surcharge from the outside users.

Dick Moore, the Mayor of Elkhart, and Maggie Marnocha, Utility Attorney for Elkhart, discussed their city's experience with extensions of utility service, which included entering into contracts under IC 36-4-3-21 requiring outside users to make payments in lieu of annexation.

Danielle McGrath, Executive Director of External Affairs of the IURC, presented an overview of rules, rates, and regulations for municipal water utilities, discussing how the ratemaking process differs for municipal utilities that are subject to IURC jurisdiction and for municipal utilities that have opted out of IURC jurisdiction.

Final Meeting - October 30, 2013

IDEM's Annual Report

The Commissioner of IDEM, Thomas Easterly, presented IDEM's Annual Report to the EQSC. He spoke about the following subjects:

The mission of IDEM.

Significant "performance metrics" of IDEM as of September, 2013, including these:

- 87.64 % of Hoosiers live in counties that meet air quality standards, versus only 61% in

- June of 2005; and
- 99.07% of Indiana's "CSO" communities (those having sewer systems that collect rainwater runoff and domestic sewage together) have approved programs to address the release of untreated sewage in their sewer overflows, versus only 4% in June of 2005.

IDEM's success in eliminating the backlog in the processing of applications for permits and the backlog of unresolved enforcement cases.

The sufficiency of IDEM's fiscal year 2014-2015 appropriation and the prospect that, for fiscal year 2016-2017, some individual dedicated funds will be insufficient for the needs of their programs.

The current status of IDEM water quality programs, including the fact that 100% of the individual NPDES permits issued by IDEM are now current, making IDEM #1 among the nation's state environmental agencies in this performance category.

The current status of IDEM air quality programs, including the fact that all of Indiana met every National Ambient Air Quality Standard at the end of 2009 but, since then, new and more stringent standards have resulted in the U.S. EPA designating certain parts of Indiana as "nonattainment" of the standard for ozone, lead, or sulphur dioxide, and that the new, lower PM_{2.5} (fine particle) standard will probably lead to new nonattainment designations in 2015.

The current status of IDEM land quality programs, including IDEM's recent reception of an innovation award from the Environmental Council of the States and the reporting to IDEM of 2111 spills in the 12 month period ending June 30, 2013

The administrative rules being adopted or revised by the Rules Branch of IDEM's Office of Legal Counsel and the reasons for adopting or revising those rules.

The challenges facing IDEM, including the delay in the designation of Floyd and Clark Counties as in attainment of the PM_{2.5} standard due to problems with the air monitoring system in Louisville, Kentucky; the proliferation of toxic blue-green algae (cynobacteria); and problems with the cost and timeliness of water quality monitoring.

The effect of the President's climate change directives upon Indiana and its coal fired power plants.

Air pollution "transport" issues, including the EPA's adoption in 2011 of the Cross-State Air Pollution Rule (CSAPR), which would impose restrictions on Midwestern states to reduce air pollution in eastern states, and the vacating of the CSAPR by a federal Court of Appeals.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

Because the number of voting members of the EQSC present at the final meeting was less than a majority of the voting members, it was not possible for the EQSC to adopt findings of fact or recommendations for inclusion in its final report. However, individual legislative members of the EQSC stated their intention to continue working on issues discussed at the EQSC's 2013 meetings during the 2014 legislative session.

WITNESS LIST

Larry D. Barker, Vice President, the Association of Indiana Solid Waste Management Districts

Patrick Bennett, Indiana Manufacturers Association

Kira Blacketor, City of Fort Wayne Solid Waste Department

Sean Cleary, Director, International Association of Plumbing and Mechanical Officials

Rhonda Cook, Indiana Association of Cities and Towns

Commissioner Thomas Easterly, Indiana Department of Environmental Management

Reuben R. Goforth, PhD., Department of Forestry & Natural Resources, Purdue University

John Goss, Asian Carp Director, White House Council on Environmental Quality

Matt Grantz, City of Fort Wayne Solid Waste Department

Carey Hamilton, Indiana Recycling Coalition

Jessica Harmon, Legislative Services Agency

Dave Hudson, Strategic Materials, Inc.

Sally Rideout Lambert, Alcoa

Jennifer Lawrence, Secretary, the Association of Indiana Solid Waste Management Districts

Gary Malone, CPA, H. J. Umbaugh & Associates

Maggie Marnocha, Utility Attorney for the City of Elkhart, Indiana

Danielle McGrath, Executive Director of External Affairs, Indiana Utility Regulatory Commission

Scott Miller, Knauf Insulation

Dick Moore, Mayor of Elkhart, Indiana

Craig Mortell, Legislative Services Agency

David B. Nutty, Manager of Water Treatment for Connersville, Indiana

Charles Schwarze, Amcor Rigid Plastics

Steve Segebarth, the Verallia corporation

Michael Smaha, Owens-Illinois, Inc.

Chris Smith, Deputy Director, Indiana Department of Natural Resources

Melody Park, Director, Office of Sustainability, City of Indianapolis

James Probst, President, Indiana American Backflow Prevention Association

Greg Zoeller, Attorney General of Indiana